UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:08CV299-3-MU

JAMEY LAMONT WILKINS,)	
Plaintiff,)	
v.)	<u>ORDER</u>
OFFICER GADDY,)	
Defendant.)))	

THIS MATTER is before the Court on initial review of Plaintiff's Complaint pursuant to 42 U.S.C. §1983, (Document No. 1.) For the following reasons, Plaintiff's Complaint will be dismissed.

As in his first Complaint filed on March 27, 2008 (See 3:08cv138; Doc. No. 1), Plaintiff once again alleges that on June 13, 2007, while he was in maximum control at Lanesboro Correctional Institution, Defendant Gaddy, a correctional officer, entered his cell and used "unwarranted excessive force by attacking the unrestrained plaintiff." (Complaint at 3.) Plaintiff once again alleges that as a result of this incident he sustained multiple physical injuries including "a bruised heel, low back pain, increased blood pressure, as well as migraine headaches and dizziness." Plaintiff also alleges that he suffered psychological injuries such as anxiety, depression, and panic attacks. Different from his previous Complaint, this time Plaintiff states that he was seen by medical staff for his injuries and that he was actually diagnosed with "a bruised heel, lower back pains, increased blood pressure as well as migraine headaches and dizziness." (Complaint at 3.)

Upon a careful review of Plaintiff's Complaint, the Court has determined that the matters about which Plaintiff complains are identical to the claims which he already raised in previous Complaint which this Court dismissed. (See 3:08cv138). The principle of res judicata operates to bar further claims by parties or their privies based on the same cause of action that has been previously adjudicated on the merits. See Young-Henderson v. Spartanburg Area Mental Heath Ctr., 945 F.2d 770, 773 (4th Cir. 1991).

IT IS THEREFORE ORDERED THAT Plaintiff's Complaint is DISMISSED based on principles of res judicata and for failure to state a claim for relief.¹

SO ORDERED.

Signed: July 2, 2008

Graham C. Mullen

United States District Judge

¹ The fact that Plaintiff now includes a conclusory sentence that his injuries which included a "bruised heel, lower back pains, increased blood pressure as well as migraine headaches and dizziness" were diagnosed by medical staff does not alter the Court's analysis in Plaintiff's original case (3:08cv138) that Plaintiff does not allege that he suffered anything more than a de minimus injury.